

BEST AVAILABLE COPY



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/849,404	05/22/97	LAFFEND	L CR-9715-B
			EXAMINER
18M2/0911			
LINDA A FLOYD EI DU PONT DE NEMOURS & COMPANY LEGAL PATENTS WILMINGTON DE 19898			
			LILLING, H ART UNIT PAPER NUMBER
			1808 3
			DATE MAILED: 09/11/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on May 22, 1997
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.
- A shortened statutory period for response to this action is set to expire ONE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

- ☒ Claim(s) 1-33 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-33 are subject to restriction or election requirement.

### Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

Serial 08/849404

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1808

15. Receipt is acknowledged of the preliminary amendment filed May 22, 1997.
16. Applicant is kindly requested to correct the deficiency as noted by the draftsman on the PTO-948 dated August 07, 1997.
17. This application has been filed under 35 U.S.C. 371 on PCT/96/06705 on May 10, 1996 which is a CIP of U.S. Ser. No 08.440,293.
18. Claims 1-33 are present in the instant application.
19. This application has been restricted according to PCT Rules. Applicant is entitled to the first invention, **process claims drawn to the production of 1,3 propanediol with a microorganism having at least one gene capable of expressing a dehydratase enzyme, and the first product per se.**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18 and 33, drawn to **process** of preparing 1,3 propanediol, classified in class 435, subclass 158; and the first product which is  
Claim 19, drawn to **product, 1,3 propanediol**, classified in Class 560, subclass ;

Art Unit: 1808

- II. Claim 20 , drawn to **second product** consisting of a cosmid, classified in class 435, subclass 320.1.
- III. Claims 21-22, drawn to **third product** consisting of a transformed microorganism, classified in class 435, subclass 252.1.
- IV. Claim 23, drawn to **fourth product** consisting of transformed microorganism having two specific DNA fragments, classified in class 435, subclass 252.1+.
- V. Claim 24, drawn to **fifth product** consisting of a recombinant **Pseudomonas sp.**, classified in class 435, subclass 252.34.
- VI. Claim 25, drawn to **sixth product** consisting of a recombinant yeast **Pichia pastoris**, classified in class 435, subclass 254.23.
- VII. Claim 26, drawn to a **seventh product** consisting of a recombinant **Saccharomyces cerevisiae**, classified in class 435, subclass 254.21.
- VIII. Claims 27-28, drawn to an **eight product** consisting of a recombinant **Bacillus licheniformis or Bacillus subtilis** classified in class 435, subclass 252.31.
- IX. Claim 29, drawn to a **ninth product** consisting of a recombinant **Streptomyces lividans**, classified in class 435, subclass 252.35.

Art Unit: 1808

X. Claim 30, drawn to **tenth product** consisting of a recombinant **Aspergillus niger** strain , classified in class 435, subclass 254.3.

XI. Claims 31-32, drawn to a **eleventh product** consisting of recombinant eucaryote microorganism expressing dehydratase enzyme, classified in class 435, subclass 254.1.

20. The inventions are distinct, each from the other because:

these inventions are distinct and they have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter and the search required for one invention is not required for the other invention, thusly the restriction for examination purposes as indicated is proper.

21. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

22. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

It is noted that Claims 26-30 lacks data for the ATCC numbers.

Art Unit: 1808


23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lilling whose telephone number is (703) 308-2034 and fax number (Art Unit 1808) is (703) 305-3014. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL

(703) 308-2034

Art Unit 1808

September 08, 1997

  
HERBERT J. LILLING  
PATENT EXAMINER  
GROUP 150 - ART UNIT 1808